

1 WO
2
3
4
5

6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8
9 MICHAEL C. BAUERLEIN, surviving) CV-04-1904-PHX-SMM
natural father of BROOKE LYNNE)
10 BAUERLEIN, deceased minor,) ORDER
individually and on behalf of all wrongful)
death beneficiaries, including SHANNON)
11 BAUERLEIN, surviving mother of)
BROOKE LYNNE BAUERLEIN,)
deceased minor; and PATRICIA JOELLE)
12 BAUERLEIN, through MICHAEL C.)
BAUERLEIN, her natural parent and next)
13 friend,
14)
15 Plaintiff,
16 vs.
17 EQUITY RESIDENTIAL PROPERTIES)
MANAGEMENT CORPORATION, an)
18 Illinois Corporation d/b/a/ LA)
MARIPOSA; LOTUS & WINDOWWARE,)
19 INC., a California Corporation; JUMBO)
SURPLUS CORPORATION, a Taiwanese)
20 Corporation; JOHN and JANE DOES I-X;)
a n d B L A C K a n d W H I T E)
21 CORPORATIONS/PARTNERSHIPS I-X,)
22 Defendants.
23)

24 Pending before the Court is Plaintiffs' (both Michael and Joelle, as well as Joinder by
25 mother Shannon) Application for Damages against Co-Defendant Jumbo Surplus Corporation,
26 Ltd. ("Jumbo Surplus") (Dkt. 293) filed pursuant to Rule 55 of the Federal Rules of Civil
27 Procedure and the Local Rules of this Court.

1 Upon entry of default, a district court may enter default judgment under certain
2 circumstances, except against an infant or incompetent unless represented by a general
3 guardian, committee, conservator, or other individual who has appeared before the Court.
4 FED. R. CIV. P. 55(b)(2). On June 6, 2008, the Court granted default judgment against Co-
5 Defendant Jumbo Surplus. (Dkt. 290). The default established Jumbo Surplus' liability to
6 Plaintiff.

In their application to the Court, Plaintiffs seek damages in the amount of three million dollars (\$3,000,000) exclusive of any setoffs and/or credits against defendant Jumbo Surplus and for such other and further relief this Court deems just and equitable. (Dkt. 293 at ¶ 2). In their affidavits, Plaintiffs allege that this amount is necessary to compensate for emotional, funeral and death, and business-related damages associated with the death of the victim. However, because the Court does not find the damages amount to be easily ascertainable from the Plaintiff's Application, an evidentiary hearing is necessary to determine the specific amount of damages owed by Jumbo Surplus. Plaintiffs shall provide the Court with calculable amounts for counseling, funeral, business losses, and other damages incurred as a result of the victim's death.

17 | Accordingly,

IT IS HEREBY ORDERED DENYING Plaintiffs' Application for Damages against
Co-Defendant Jumbo Surplus Corporation, Ltd. (Doc. 293.)

20 **IT IS FURTHER ORDERED** that the Court will hold an evidentiary hearing on
21 **October 9, 2008 at 1:30 p.m.** to determine the proper amount of damages owed to Plaintiffs
22 by Co-Defendant Jumbo Surplus Corporation, Ltd.

23 || DATED this 25th day of September, 2008.

Stephen G. Mandel
Salem, Mass.

**Stephen M. McNamee
United States District Judge**